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Daiji Ido

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EXAMINER

FOX, JAMAL A

ART UNIT

PAPER NUMBER

2664

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,934

Applicant(s)

IDO ET AL.

Examiner

Jamal A. Fox

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 10/069,934.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/1/02 & 1/31/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 8 and 9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim *should refer to other claims in the alternative only*. See MPEP § 608.01(n). Accordingly, the claims *have not been further treated on the merits*.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Robins et al. (U.S. Patent No. 5,049,873).

Referring to claim 1, Robins et al. discloses a data transmitting apparatus comprising:

packet transmitting means (IDNX, col. 4 lines 15-27) for transmitting transmission data taking the form of packet via a packet communication network;

packet retransmitting (retransmission, col. 13 lines 6-67, col. 15 lines 35-45 and col. 17 lines 55-67) means for retransmitting (retransmission, col. 13 lines 6-67, col. 15 lines 35-45 and col. 17 lines 55-67) a packet requested to retransmit;

control command generating means for generating a control command that notices a closing of a session (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) and makes said packet transmitting means transmit the control command as a session close notice packet; and

session closing means for closing the session (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) when a predetermined period of time has passed after transmitting the session close notice packet.

Referring to claim 2, Robins et al. discloses the data transmitting apparatus according to claim 1, which further comprises round-trip (round trip, col. 10 lines 59-65 and col. 11 lines 1-8) time calculating means for calculating a round-trip (round trip, col. 10 lines 59-65 and col. 11 lines 1-8) time of data between a party to which the data is transmitted and said data transmitting apparatus;

wherein said session closing means closes the session (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) with the party to which the data is transmitted when the round-trip (round trip, col. 10 lines 59-65 and col. 11 lines 1-8) time calculated by said round-trip (round trip, col. 10 lines 59-65 and col. 11 lines 1-8) time calculating means has passed after transmitting the session close (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) notice packet.

Referring to claim 3, Robins et al. discloses the data transmitting apparatus according to claim 1, wherein a session continuation time (see Fig. 12 and respective portions of the spec.) after transmitting the session close (close session, col. 3 lines 25-

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30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) notice packet is stored in said session close (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) notice packet.

Referring to claim 4, Robins et al. discloses a data receiving apparatus comprising:

packet receiving (receiving, col. 5 lines 55-60) means for receiving packets from a data transmitting source via a packet communication network;

missing packet determining means (monitor node, col. 4 lines 30-40) for determining whether any packet is missing or not;

control information receiving means for receiving control information including a session close (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) notice packet from the data transmitting source;

round-trip (round trip, col. 10 lines 59-65 and col. 11 lines 1-8) time calculating means for calculating a round-trip time of data between the data transmitting source and said data receiving apparatus; and

retransmission (retransmission, col. 13 lines 6-67, col. 15 lines 35-45 and col. 17 lines 55-67) determining means for determining whether a retransmission (retransmission, col. 13 lines 6-67, col. 15 lines 35-45 and col. 17 lines 55-67) request for a missing packet should be transmitted or not based on a result of comparison between the session continuation time stored in the session close (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) notice packet

and the round-trip time calculated by said round-trip (round trip, col. 10 lines 59-65 and col. 11 lines 1-8) time calculating means.

Referring to claim 5, Robins et al. discloses a session closing (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) method to close a session (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) after continuing the session for a predetermined period of time after transmitting a session close (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) notice packet to a client that notices a closing of the session (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) via a packet communication network.

Referring to claim 6, Robins et al. discloses a packet retransmission (retransmission, col. 13 lines 6-67, col. 15 lines 35-45 and col. 17 lines 55-67) determining method comprising the steps of:

receiving a session close (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) notice packet that notices a closing of a session (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) via a packet communication network;

determining (diagnostic functions, col. 4 lines 28-40) whether any missing packet is included or not within received data;

calculating a round-trip (round trip, col. 10 lines 59-65 and col. 11 lines 1-8) time of data between a data transmitting source and a data receiving apparatus; and

determining whether a retransmission (retransmission, col. 13 lines 6-67, col. 15 lines 35-45 and col. 17 lines 55-67) request for a missing packet should be transmitted or not by comparing a calculated round-trip (round trip, col. 10 lines 59-65 and col. 11 lines 1-8) time and a session continuation time stored in the session close (close session, col. 3, lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) notice packet.

Referring to claim 7, Robins et al. discloses a packet retransmission (retransmission, col. 13 lines 6-67, col. 15 lines 35-45 and col. 17 lines 55-67) determining program executed by a computer, wherein said program makes said computer execute the steps of:

receiving a session close (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) notice packet that notices a close of a session (close session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) via a packet communication network;

determining (diagnostic functions, col. 4 lines 28-40) whether any missing packet is included or not within received data;

calculating a round-trip (round trip, col. 10 lines 59-65 and col. 11 lines 1-8) time of data between a data transmitting source and a data receiving apparatus; and

determining whether a retransmission (retransmission, col. 13 lines 6-67, col. 15 lines 35-45 and col. 17 lines 55-67) request for a missing packet should be transmitted or not by comparing a calculated round-trip (round trip, col. 10 lines 59-65 and col. 11 lines 1-8) time and a session continuation time stored in the session close (close

session, col. 3 lines 25-30, col. 14 lines 38-45 and close the session, col. 16 lines 10-18) notice packet.

Referring to claim 8, Robins et al. discloses a data transmitting/receiving (receiving, col. 5 lines 55-60) system comprising a data transmitting apparatus as defined in claim 1 and/or a data receiving (receiving, col. 5 lines 55-60) apparatus as defined in claim 4.

Referring to claim 9, Robins et al. discloses a data transmitting/receiving (receiving, col. 5 lines 55-60) system comprising:

a data transmitting apparatus as defined in claim 1 and/or a data receiving (receiving, col. 5 lines 55-60) apparatus as defined in claim 4, and a repeater (APE, col. 6 lines 5-15) that passes (forwards, col. 6 lines 5-15) on packets therebetween.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Kadansky et al. (U.S. Patent No. 6,507,562).

Referring to claim 1, Kadansky et al. discloses a data transmitting (transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) apparatus comprising:

packet transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) means for transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) transmission (transmission, col. 28 lines 10-15) data taking the form of packet via a packet communication network;

packet retransmitting (retransmitting, col. 2 lines 45-50, col. 7 lines 10-15; retransmission, col. 5 lines 10-15, col. 6 lines 55-65, col. 7 lines 55-60, col. 8 lines 60-67, col. 9 lines 45-55, col. 10 lines 1-15, col. 14 lines 45-50, col. 15 lines 15-30, col. 28 lines 10-15, col. 29 lines 10-28, col. 32 lines 15-20, col. 33 lines 25-40, col. 34 lines 1-5, col. 39 lines 20-25, col. 40 lines 30-40, col. 46 lines 1-5, col. 5 lines 20-30, col. 52 line 67 and col. 54 lines 35-40; retransmission request, col. 53 lines 64-67) means for retransmitting (retransmitting, col. 2 lines 45-50, col. 7 lines 10-15; retransmission, col. 5 lines 10-15, col. 6 lines 55-65, col. 7 lines 55-60, col. 8 lines 60-67, col. 9 lines 45-55, col. 10 lines 1-15, col. 14 lines 45-50, col. 15 lines 15-30, col. 28 lines 10-15, col. 29 lines 10-28, col. 32 lines 15-20, col. 33 lines 25-40, col. 34 lines 1-5, col. 39 lines 20-25, col. 40 lines 30-40, col. 46 lines 1-5, col. 5 lines 20-30, col. 52 line 67 and col. 54 lines 35-40; retransmission request, col. 53 lines 64-67) a packet requested to retransmit (retransmitting, col. 2 lines 45-50, col. 7 lines 10-15; retransmission, col. 5 lines

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10-15, col. 6 lines 55-65, col. 7 lines 55-60, col. 8 lines 60-67, col. 9 lines 45-55, col. 10 lines 1-15, col. 14 lines 45-50, col. 15 lines 15-30, col. 28 lines 10-15, col. 29 lines 10-28, col. 32 lines 15-20, col. 33 lines 25-40, col. 34 lines 1-5, col. 39 lines 20-25, col. 40 lines 30-40, col. 46 lines 1-5, col. 5 lines 20-30, col. 52 line 67 and col. 54 lines 35-40; retransmission request, col. 53 lines 64-67);

control command generating means for generating a control command that notices a closing of a session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) and makes said packet transmitting means transmit the control command as a session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) close notice packet; and

session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) closing means for closing the session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) when a predetermined period of time has passed after transmitting the session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) close notice packet.

Referring to claim 2, Kadansky et al. discloses the data transmitting apparatus according to claim 1, which further comprises round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) calculating means for calculating a round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) of data between a party to which the data is transmitted (transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) and said data transmitting (transmitting, col. 10 lines 1-5) apparatus;

wherein said session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) closing means closes the session with the party to which the data is transmitted when the round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) calculated by said round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) calculating means has passed after transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) the session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) close notice packet.

Referring to claim 3, Kadansky et al. discloses the data transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) apparatus according to claim 1, wherein a session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) continuation time after transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) the session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) close notice packet is stored in said session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) close notice packet.

Referring to claim 4, Kadansky et al. discloses a data receiving apparatus comprising:

packet receiving means for receiving packets from a data transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) source via a packet communication network;

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missing packet (missing packet, col. 8 lines 50-67, col. 14 lines 15-20, col. 28 lines 1-20, col. 28 lines 50-67, col. 30 lines 1-12, col. 48 lines 5-15, col. 50 lines 1-20, col. 50 lines 65-67, col. 51 lines 5-15 and col. 51 lines 50-65) determining means for determining whether any packet is missing (missing packet, col. 8 lines 50-67, col. 14 lines 15-20, col. 28 lines 1-20, col. 28 lines 50-67, col. 30 lines 1-12, col. 48 lines 5-15, col. 50 lines 1-20, col. 50 lines 65-67, col. 51 lines 5-15 and col. 51 lines 50-65) or not;

control information receiving means for receiving control information including a session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) close notice packet from the data transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) source;

round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) calculating means for calculating a round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) of data between the data transmitting source and said data receiving apparatus; and

retransmission determining means for determining whether a retransmission (retransmitting, col. 2 lines 45-50, col. 7 lines 10-15; retransmission, col. 5 lines 10-15, col. 6 lines 55-65, col. 7 lines 55-60, col. 8 lines 60-67, col. 9 lines 45-55, col. 10 lines 1-15, col. 14 lines 45-50, col. 15 lines 15-30, col. 28 lines 10-15, col. 29 lines 10-28, col. 32 lines 15-20, col. 33 lines 25-40, col. 34 lines 1-5, col. 39 lines 20-25, col. 40 lines 30-40, col. 46 lines 1-5, col. 5 lines 20-30, col. 52 line 67 and col. 54 lines 35-40; retransmission request, col. 53 lines 64-67) request for a missing packet should be transmitted or not based on a result of comparison between the session continuation

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time stored in the session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) close notice packet and the round-trip time calculated by said round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) calculating means.

Referring to claim 5, Kadansky et al. discloses a session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) closing method to close a session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) after continuing the session for a predetermined period of time after transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) a session close notice packet to a client that notices a closing of the session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) via a packet communication network.

Referring to claim 6, Kadansky et al. discloses a packet retransmission (retransmitting, col. 2 lines 45-50, col. 7 lines 10-15; retransmission, col. 5 lines 10-15, col. 6 lines 55-65, col. 7 lines 55-60, col. 8 lines 60-67, col. 9 lines 45-55, col. 10 lines 1-15, col. 14 lines 45-50, col. 15 lines 15-30, col. 28 lines 10-15, col. 29 lines 10-28, col. 32 lines 15-20, col. 33 lines 25-40, col. 34 lines 1-5, col. 39 lines 20-25, col. 40 lines 30-40, col. 46 lines 1-5, col. 5 lines 20-30, col. 52 line 67 and col. 54 lines 35-40; retransmission request, col. 53 lines 64-67) request for a missing packet (missing packet, col. 8 lines 50-67, col. 14 lines 15-20, col. 28 lines 1-20, col. 28 lines 50-67, col. 30 lines 1-12, col. 48 lines 5-15, col. 50 lines 1-20, col. 50 lines 65-67, col. 51 lines 5-15 and col. 51 lines 50-65) should be transmitted (transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) or not by comparing a calculated round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) determining method comprising the steps of:

receiving a session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) close notice packet that notices a closing of a session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) via a packet communication network;

determining whether any missing packet (missing packet, col. 8 lines 50-67, col. 14 lines 15-20, col. 28 lines 1-20, col. 28 lines 50-67, col. 30 lines 1-12, col. 48 lines 5-15, col. 50 lines 1-20, col. 50 lines 65-67, col. 51 lines 5-15 and col. 51 lines 50-65) is included or not within received data;

calculating a round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) of data between a data transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) source and a data receiving apparatus; and

determining whether a retransmission (retransmitting, col. 2 lines 45-50, col. 7 lines 10-15; retransmission, col. 5 lines 10-15, col. 6 lines 55-65, col. 7 lines 55-60, col. 8 lines 60-67, col. 9 lines 45-55, col. 10 lines 1-15, col. 14 lines 45-50, col. 15 lines 15-30, col. 28 lines 10-15, col. 29 lines 10-28, col. 32 lines 15-20, col. 33 lines 25-40, col. 34 lines 1-5, col. 39 lines 20-25, col. 40 lines 30-40, col. 46 lines 1-5, col. 5 lines 20-30, col. 52 line 67 and col. 54 lines 35-40; retransmission request, col. 53 lines 64-67) request for a missing packet (missing packet, col. 8 lines 50-67, col. 14 lines 15-20, col. 28 lines 1-20, col. 28 lines 50-67, col. 30 lines 1-12, col. 48 lines 5-15, col. 50 lines 1-20, col. 50 lines 65-67, col. 51 lines 5-15 and col. 51 lines 50-65) should be transmitted (transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) or not by comparing a calculated round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) and a

session continuation time stored in the session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) close notice packet.

Referring to claim 7, Kadansky et al. discloses a packet retransmission (retransmitting, col. 2 lines 45-50, col. 7 lines 10-15; retransmission, col. 5 lines 10-15, col. 6 lines 55-65, col. 7 lines 55-60, col. 8 lines 60-67, col. 9 lines 45-55, col. 10 lines 1-15, col. 14 lines 45-50, col. 15 lines 15-30, col. 28 lines 10-15, col. 29 lines 10-28, col. 32 lines 15-20, col. 33 lines 25-40, col. 34 lines 1-5, col. 39 lines 20-25, col. 40 lines 30-40, col. 46 lines 1-5, col. 5 lines 20-30, col. 52 line 67 and col. 54 lines 35-40; retransmission request, col. 53 lines 64-67) determining program executed by a computer, wherein said program makes said computer execute the steps of:

receiving a session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) close notice packet that notices a close of a session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) via a packet communication network;

determining whether any missing packet (missing packet, col. 8 lines 50-67, col. 14 lines 15-20, col. 28 lines 1-20, col. 28 lines 50-67, col. 30 lines 1-12, col. 48 lines 5-15, col. 50 lines 1-20, col. 50 lines 65-67, col. 51 lines 5-15 and col. 51 lines 50-65) is included or not within received data;

calculating a round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) of data between a data transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) source and a data receiving apparatus; and

determining whether a retransmission (retransmitting, col. 2 lines 45-50, col. 7 lines 10-15; retransmission, col. 5 lines 10-15, col. 6 lines 55-65, col. 7 lines 55-60, col.

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8 lines 60-67, col. 9 lines 45-55, col. 10 lines 1-15, col. 14 lines 45-50, col. 15 lines 15-30, col. 28 lines 10-15, col. 29 lines 10-28, col. 32 lines 15-20, col. 33 lines 25-40, col. 34 lines 1-5, col. 39 lines 20-25, col. 40 lines 30-40, col. 46 lines 1-5, col. 5 lines 20-30, col. 52 line 67 and col. 54 lines 35-40; retransmission request, col. 53 lines 64-67) request for a missing packet (missing packet, col. 8 lines 50-67, col. 14 lines 15-20, col. 28 lines 1-20, col. 28 lines 50-67, col. 30 lines 1-12, col. 48 lines 5-15, col. 50 lines 1-20, col. 50 lines 65-67, col. 51 lines 5-15 and col. 51 lines 50-65) should be transmitted or not by comparing a calculated round-trip time (round-trip time, col. 18 lines 20-30 and col. 44 lines 40-50) and a session continuation time stored in the session (session, col. 34 lines 1-20, col. 52 lines 55-67 and col. 53 lines 10-20) close notice packet.

Referring to claim 8, Kadansky et al. discloses a data transmitting/receiving (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) system comprising a data transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) apparatus as defined in claim 1 and/or a data receiving apparatus as defined in claim 4.

Referring to claim 9, Kadansky et al. discloses a data transmitting/receiving (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) system comprising:

a data transmitting (transmitting, col. 10 lines 1-5; transmitted, col. 10 lines 5-15 and col. 15 lines 15-20) apparatus as defined in claim 1 and/or a data receiving apparatus as defined in claim 4, and a repeater that passes on packets therebetween.

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1-9 are rejected under 35 U.S.C. 102(a) as being anticipated by Zink et al. "LC-RTP (Loss Collection RTP): Reliability for Video Caching in the Internet".

Referring to claim 1, Zink et al. discloses a data transmitting apparatus comprising:

packet transmitting (Fig. 1, sender) means for transmitting transmission data taking the form of packet via a packet communication network;

packet retransmitting (Fig. 1, retransmission and page 284, col. 2 lines 1-31) means for retransmitting (Fig. 1, retransmission and page 284, col. 2 lines 1-31) a packet requested to retransmit;

control command generating means for generating a control command that notices a closing of a session (session, page 284 col. 2 lines 1-35) and makes said packet transmitting means transmit the control command as a session close notice packet (Fig. 1, end packet and page 284 col. 1 lines 25-35); and

session (session, page 284 col. 2 lines 1-35) closing means for closing the session when a predetermined period of time has passed after transmitting the session close notice packet (Fig. 1, end packet and page 284 col. 1 lines 25-35).

Referring to claim 2, Zink et al. discloses the data transmitting apparatus according to claim 1, which further comprises round-trip time (round trip time, page 284

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col. 1 lines 46-55) calculating means for calculating a round-trip time of data between a party to which the data is transmitted and said data transmitting apparatus;

wherein said session closing means closes the session with the party to which the data is transmitted when the round-trip time calculated by said round-trip time (round trip time, page 284 col. 1 lines 46-55) calculating means has passed after transmitting the session (session, page 284 col. 2 lines 1-35) close notice packet (Fig. 1, end packet and page 284 col. 1 lines 25-35).

Referring to claim 3, Zink et al. discloses the data transmitting apparatus according to claim 1, wherein a session continuation time after transmitting the session (session, page 284 col. 2 lines 1-35) close notice packet is stored in said session close notice packet (Fig. 1, end packet and page 284 col. 1 lines 25-35).

Referring to claim 4, Zink et al. discloses a data receiving apparatus comprising:
packet receiving means for receiving packets from a data transmitting source via a packet communication network;

missing packet (Fig. 1, loss and page 283 col. 2 lines 50-55 and page 284 col. 1 line 45 – col. 2 line 35) determining means for determining whether any packet is missing (Fig. 1, loss and page 283 col. 2 lines 50-55 and page 284 col. 1 line 45 – col. 2 line 35) or not;

control information receiving means for receiving control information including a session (session, page 284 col. 2 lines 1-35) close notice packet from the data transmitting source;

round-trip time (round trip time, page 284 col. 1 lines 46-55) calculating means for calculating a round-trip time (round trip time, page 284 col. 1 lines 46-55) of data between the data transmitting source and said data receiving apparatus; and

retransmission determining means for determining whether a retransmission (Fig. 1, retransmission and page 284, col. 2 lines 1-31) request for a missing packet should be transmitted or not based on a result of comparison between the session continuation time stored in the session (session, page 284 col. 2 lines 1-35) close notice packet and the round-trip time (round trip time, page 284 col. 1 lines 46-55) calculated by said round-trip time (round trip time, page 284 col. 1 lines 46-55) calculating means.

Referring to claim 5, Zink et al. discloses a session (session, page 284 col. 2 lines 1-35) closing method to close a session after continuing the session for a predetermined period of time after transmitting a session close notice packet (Fig. 1, end packet and page 284 col. 1 lines 25-35) to a client that notices a closing of the session (session, page 284 col. 2 lines 1-35) via a packet communication network.

Referring to claim 6, Zink et al. discloses a packet retransmission determining method comprising the steps of:

receiving a session (session, page 284 col. 2 lines 1-35) close notice packet (Fig. 1, end packet and page 284 col. 1 lines 25-35) that notices a closing of a session (session, page 284 col. 2 lines 1-35) via a packet communication network;

determining whether any missing packet (Fig. 1, loss and page 283 col. 2 lines 50-55 and page 284 col. 1 line 45 – col. 2 line 35) is included or not within received data;

calculating a round-trip time (round trip time, page 284 col. 1 lines 46-55) of data between a data transmitting source and a data receiving apparatus; and

determining whether a retransmission (Fig. 1, retransmission and page 284, col. 2 lines 1-31) request for a missing packet should be transmitted or not by comparing a calculated round-trip time (round trip time, page 284 col. 1 lines 46-55) and a session continuation time stored in the session (session, page 284 col. 2 lines 1-35) close notice packet (Fig. 1, end packet and page 284 col. 1 lines 25-35).

Referring to claim 7, Zink et al. discloses a packet retransmission (Fig. 1, retransmission and page 284, col. 2 lines 1-31) determining program executed by a computer, wherein said program makes said computer execute the steps of:

receiving a session (session, page 284 col. 2 lines 1-35) close notice packet (Fig. 1, end packet and page 284 col. 1 lines 25-35) that notices a close of a session (session, page 284 col. 2 lines 1-35) via a packet communication network;

determining whether any missing packet (Fig. 1, loss and page 283 col. 2 lines 50-55 and page 284 col. 1 line 45 – col. 2 line 35) is included or not within received data;

calculating a round-trip time (round trip time, page 284 col. 1 lines 46-55) of data between a data transmitting source and a data receiving apparatus; and

determining whether a retransmission (Fig. 1, retransmission and page 284, col. 2 lines 1-31) request for a missing packet (Fig. 1, loss and page 283 col. 2 lines 50-55 and page 284 col. 1 line 45 – col. 2 line 35) should be transmitted or not by comparing a calculated round-trip time (round trip time, page 284 col. 1 lines 46-55) and a session

continuation time stored in the session (session, page 284 col. 2 lines 1-35) close notice packet (Fig. 1, end packet and page 284 col. 1 lines 25-35).

Referring to claim 8, Zink et al. discloses a data transmitting/receiving system (Fig. 1, sender and receiver and respective portions of the spec.) comprising a data transmitting (Fig. 1, sender and respective portions of the spec.) apparatus as defined in claim 1 and/or a data receiving (Fig. 1, receiver and respective portions of the spec.) apparatus as defined in claim 4.

Referring to claim 9, Zink et al. discloses a data transmitting/receiving system (Fig. 1, sender and receiver and respective portions of the spec.) comprising:

a data transmitting (Fig. 1, sender and respective portions of the spec.) apparatus as defined in claim 1 and/or a data receiving (Fig. 1, receiver and respective portions of the spec.) apparatus as defined in claim 4, and a repeater that passes on packets therebetween.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Takeshi et al. (JP 10-112884).

Referring to claim 1, discloses a data transmitting (transmits, [0019]) apparatus comprising:

packet transmitting means for transmitting transmission (transmission, [0019], [0042] and [0044]) data taking the form of packet (frame, [0019], [0042] and [0044]) via a packet communication network;

packet retransmitting (repeat transmission, [0018]) means for retransmitting a packet (frame, [0019], [0042] and [0044]) requested to retransmit (repeat transmission, [0018]);

control command generating means for generating a control command that notices a closing (disconnect, [0019], [0042] and [0044]) of a session and makes said packet transmitting means transmit the control command as a session close (disconnect, [0019], [0042] and [0044]) notice packet; and

session closing (disconnect, [0019], [0042] and [0044]) means for closing the session when a predetermined period of time (fixed time amount, [0019] and [0044]) has passed after transmitting the session close (disconnect, [0019], [0042] and [0044]) notice packet.

Referring to claim 5, discloses a session closing (disconnect, [0019], [0042] and [0044]) method to close (disconnect, [0019], [0042] and [0044]) a session after continuing the session for a predetermined period of time (fixed time amount, [0019] and [0044]) after transmitting a session close (disconnect, [0019], [0042] and [0044]) notice packet to a client that notices a closing (disconnect, [0019], [0042] and [0044]) of the session via a packet communication network.

Conclusion

10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for formal communications intended for entry)


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2600 Customer Service whose telephone number is (571) 272-2600.



Jamal A. Fox



WELLINGTON CHIN
SUPERVISORY PATENT EXAMINER